

1 IN THE UNITED STATES DISTRICT COURT
2 MIDDLE DISTRICT OF TENNESSEE
3 NASHVILLE DIVISION

4 UNITED STATES OF AMERICA, }
5 }
6 } Plaintiff,
7 }
8 } Case No.
9 } 3:17-CR-00044-3
10 v. }
11 ANDREW RYAN LESLIE, } CHIEF JUDGE CRENSHAW
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BEFORE THE HONORABLE
CHIEF DISTRICT JUDGE WAVERLY D. CRENSHAW, JR.

APPEARANCES:

For the Plaintiff: Ms. S. Carran Daughtrey
110 Ninth Avenue, S., Suite A961
Nashville, Tennessee 37203

For the Defendant: Ms. Jennifer L. Thompson
810 Broadway, Suite 305
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PREPARED BY:

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1 The above-styled cause came on to be heard on
2 November 16, 2018, before the Honorable Waverly D. Crenshaw,
3 Jr., Chief District Judge, when the following proceedings
4 were had, to-wit:

5 THE COURT: All right. Be seated.

6 All right. We're back on Case 17-44, United of
7 America versus Andrew Ryan Leslie, and Mr. Leslie is here.
8 If counsel can introduce yourselves one more time.

9 MS. DAUGHTREY: Carrie Daughtrey and Byron Jones
10 for the United States, Your Honor.

11 MS. THOMPSON: Jennifer Thompson for Mr. Andrew
12 Leslie.

13 THE COURT: All right. Mr. Leslie, I think I need
14 you to come back to the podium, and we'll take up where we
15 stopped. I hope you have a copy of the factual basis that
16 was read to the Court. And -- do you have that document?

17 MS. THOMPSON: I think I have the factual basis
18 over here.

19 THE COURT: The one that was read to the Court on
20 Wednesday.

21 (Respite.)

22 MS. THOMPSON: And then we also have our factual
23 basis that the defendant -- we've presented to the government
24 and government I think had looked at it and it --

25 THE COURT: Okay.

1 MS. THOMPSON: -- agreed to it.

2 THE COURT: All right. So Mr. Falte [sic], since
3 Wednesday have you had a chance to read this document?

4 THE DEFENDANT: The factual basis?

5 THE COURT: Yes.

6 THE DEFENDANT: That the prosecutor submitted?

7 THE COURT: Yes.

8 THE DEFENDANT: Just right after court that day me
9 and my attorney went over it.

10 THE COURT: Okay. Do you need more time to do
11 that?

12 THE DEFENDANT: No, sir.

13 THE COURT: So having read the factual basis that
14 was read to the Court, is the information in there that
15 pertains to you and your conduct correct?

16 THE DEFENDANT: Well, Your Honor, me and my
17 attorney have gone over additional factual basis that we are
18 willing to admit to instead of what the prosecutor put in.

19 THE COURT: Okay. Well, I want to deal with the
20 one that was read to the Court. Because that's all I know.
21 So as to what was read to the Court, where do you differ with
22 it, if at all?

23 MS. THOMPSON: Well, Your Honor, it's our
24 position -- and I have advised Mr. Leslie that it would be --
25 it could be considered perjury, or perhaps obstruction of

1 justice, if he stood in front of the Court and knowingly
2 denied facts that he believes are true. On the other hand,
3 he has a right to require the Government to be held to their
4 burden of proof in terms of proving enhanced sentencing
5 facts. So there were some facts that the Government
6 mentioned in their plea that he's willing to admit to -- or
7 in their factual basis that he's willing to admit to.

8 THE COURT: Well, let's do it this way.

9 Do you have page 1 in front of you?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: What on page 1 do you disagree with,
12 if anything?

13 MS. THOMPSON: So -- this is --

14 THE COURT: We're just looking at page 1.

15 MS. THOMPSON: Right.

16 THE COURT: Tell me what on page 1 you believe,
17 Mr. Leslie, is not true and correct?

18 THE DEFENDANT: Umm.

19 MS. THOMPSON: So, Your Honor, what if there's a
20 fact on page 1 that is possibly true but Mr. Leslie doesn't
21 want to admit it because he doesn't want that to be -- he
22 doesn't want it to be a sentencing enhancement automatically
23 that the Government doesn't have to prove?

24 THE COURT: All right.

25 MS. THOMPSON: So let's say -- for example -- and

1 then there's some facts he wouldn't necessarily have
2 knowledge of, but let's say --

3 THE COURT: Okay. Ms. -- Ms. Thompson, let's --
4 we're not going to be here all night. Okay.

5 So go to page 1, Mr. Leslie. Do you see the first
6 paragraph?

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: Number 1, is there anything in the
9 first paragraph, number 1, that you disagree with?

10 THE DEFENDANT: Umm.

11 MS. THOMPSON: Okay. Your Honor --

12 THE COURT: I'm going to -- you need to let him --
13 no. I've gone -- I've given you enough. I've been patient.
14 This is not difficult. You -- at sentencing you can raise
15 all these issues. You can raise all these issues at
16 sentencing. But for purposes of today I need to know the
17 facts that he's agreeing to so I can make a determination
18 that the elements have been satisfied. And that's not going
19 to get done with you keep interrupting him. I'm trying to do
20 this as considerate -- I appreciate, Mr. Leslie, you -- you
21 have some difference with it.

22 THE DEFENDANT: (Defendant moves head up and
23 down.)

24 THE COURT: And I want you to preserve those
25 differences, but I have a job to do. And I need to hear from

1 you, not your lawyer. So in paragraph 1, what, if anything,
2 do you disagree with is not true?

3 THE DEFENDANT: There are a few things I don't
4 know is true.

5 THE COURT: That's fine. You can tell me that.

6 THE DEFENDANT: Such as I don't know when the
7 investigation began. I do not know how many members were of
8 the website or who posted new content. Also, I do not know
9 if new content was posted. I know old content was posted.

10 THE COURT: What do you call old content?

11 THE DEFENDANT: Stuff that's been around for more
12 than a few years, stuff that's normal. What the Government
13 usually tries to call "new" is stuff that's being actively
14 produced. I -- I was never a member of -- of an enhanced
15 group, which would have access to that stuff. So all the
16 stuff that I saw on the website was all stuff that's been
17 released for years and years.

18 THE COURT: On the website?

19 THE DEFENDANT: Yes.

20 THE COURT: And that's where you saw it?

21 THE DEFENDANT: Yes.

22 THE COURT: Okay. Anything else in paragraph 1?

23 THE DEFENDANT: That is it for paragraph 1.

24 THE COURT: Anything else in paragraph 2?

25 THE DEFENDANT: In paragraph 2, I don't know how

1 many posts I made. I know I made at least three posts. I
2 don't know how many more. I don't know if 44 is correct, if
3 that's excessive, or what.

4 THE COURT: Okay. So noted.

5 THE DEFENDANT: Paragraph 2A, I believe there were
6 seven victims -- I -- or seven videos. I do not know if the
7 baby was tied up, if she was vaginally penetrated. I do not
8 know if the baby was crying in the video. I also do not know
9 if my codefendant commented on that video.

10 THE COURT: And by that you mean Mr. Falte?

11 THE DEFENDANT: Yes.

12 THE COURT: All right. Anything else on page 1?

13 THE DEFENDANT: Paragraph 2B, the date -- my
14 attorney has researched that. The date is incorrect.

15 THE COURT: What date should it be?

16 THE DEFENDANT: I believe she says it's October --
17 or not October -- August 10th, 2015.

18 THE COURT: All right. Go ahead.

19 THE DEFENDANT: Let's see. Okay. Then that's it
20 for that one.

21 We're moving to page 2 to finish off Paragraph 2B.
22 I apparently did comment that there were new pictures -- I
23 had --

24 THE COURT: What paragraph are you on now?

25 DEFENDANT: 2A -- or 2B on the second page.

1 THE COURT: Okay. Go ahead.

2 THE DEFENDANT: I am not sure if I said I would
3 upload later. But I believe that I did say -- at least in
4 one instance, I did have more photos to upload.

5 THE COURT: Okay. Go ahead.

6 THE DEFENDANT: In paragraph C, I do not know if
7 the baby was being anally penetrated. All this happened
8 years ago. So I -- my memory is horrible.

9 THE COURT: Go ahead.

10 THE DEFENDANT: We are done with 2 completely.

11 We're going to 3. They say I facilitated the core
12 function of "Website A" by housing an approved uploading
13 location. I did not do any sort of administrative duty on
14 this website. Or at least I don't recall doing any
15 administrative duty. I did run a file uploading -- or a file
16 hosting website on Tor, but it was not for this website. It
17 was something I did completely separate. I don't know what
18 was uploaded to that server.

19 THE COURT: What about the last sentence of
20 paragraph 3?

21 THE DEFENDANT: They said that I facilitated this
22 core function of "Website A". I did not -- the -- the
23 definition I take of facilitated means I enforced this rule
24 or I had a duty to do this. I did not do that.

25 THE COURT: Anything else in that sentence?

1 THE DEFENDANT: It said I housed an approved
2 uploading location. I did run a file hosting server, but it
3 was not dedicated to child pornography. It was not dedicated
4 to this website. It was open for anyone to post to this
5 website.

6 THE COURT: Okay. As it pertains to "Website A",
7 if you didn't facilitate, did you do anything?

8 THE DEFENDANT: I was only a member of the
9 website.

10 THE COURT: Okay.

11 THE DEFENDANT: Paragraph 4, it says I showed
12 Mr. Falte child pornography that included a video of me
13 penetrating an infant. I did not share any videos. I only
14 shared pictures. And I am unsure if I penetrated the infant.

15 THE COURT: Okay.

16 THE DEFENDANT: I also do not know if forensic
17 interview -- or review of Falte's computer revealed child
18 pornography I shared with him. I don't have knowledge --

19 THE COURT: You're talking too fast now.

20 THE DEFENDANT: Oh. Sorry.

21 THE COURT: You don't know what now?

22 THE DEFENDANT: I do not know what the forensic
23 review of Falte's computer revealed.

24 THE COURT: Okay.

25 Okay. 5.

1 THE DEFENDANT: In paragraph 5, me and my attorney
2 have not been able to review that at all. It's not in the
3 discovery whatsoever.

4 THE COURT: So you don't have any knowledge of
5 paragraph 5?

6 THE DEFENDANT: I don't have any factual
7 knowledge.

8 THE COURT: Do you have any knowledge of paragraph
9 5?

10 THE DEFENDANT: Yes, I did have another website.
11 It did not pertain to this case, however. So I don't believe
12 it would be -- I think it would be prejudicial to include
13 this in the factual basis.

14 MS. THOMPSON: Your Honor, this information in
15 paragraph 5 is information that I have not been able to
16 review. It was not provided in the discovery. There were
17 some references to another website that my client had, in
18 some of the reports, but specific information about that
19 website was not included in what I reviewed.

20 THE COURT: Okay. What about 6?

21 THE DEFENDANT: When they -- I want to clarify a
22 sentence. They -- on paragraph 6 it says when they arrived
23 Leslie had been in bed with a female toddler. At that
24 instance, I was co-sleeping with the child. We were not
25 having sexual relations in any way that night, the day

1 before, that day or anything.

2 THE COURT: All right. Number 7.

3 THE DEFENDANT: And Number 7, I do not know how
4 many images were in my collection. I know there was a
5 large -- I know it was a large amount. But I don't know if
6 it was tens of thousands. I want to say that is a little
7 high, but I do not know for sure.

8 THE COURT: What's your prediction of what you
9 had?

10 THE DEFENDANT: I would say I had probably about
11 100 GB's. I don't know how many files that would contain. I
12 just remember I saw --

13 THE COURT: Okay. Just slow down. Don't talk so
14 fast.

15 THE DEFENDANT: I'm sorry.

16 THE COURT: Don't talk so fast. 100 GB's.

17 THE DEFENDANT: I do want to say a lot of those
18 were duplicates.

19 THE COURT: All right. Anything else in 7?

20 THE DEFENDANT: I do not know how many files I
21 produced myself.

22 THE COURT: What's your estimate?

23 THE DEFENDANT: I would say maybe 200. That would
24 include a few videos and images. And then me and my --

25 THE COURT: Hold on. Hold on.

1 All right. Anything else in 7?

2 THE DEFENDANT: Me and my attorney noticed a typo.

3 It says the forensic examiner also -- it should be also.

4 THE COURT: In paragraph 7?

5 THE DEFENDANT: Yes. It's on the fourth line.

6 THE COURT: Okay. Noted.

7 THE DEFENDANT: I believe that's it for paragraph

8 7.

9 And in paragraph 8 there is nothing incorrect in
10 that.

11 THE COURT: Okay.

12 (Reporter interruption for clarification.)

13 THE DEFENDANT: I said in paragraph 8 there is
14 nothing incorrect.

15 THE COURT: All right. Now, Ms. Thompson, you
16 said you had some additional things he wants to admit to. Go
17 ahead.

18 And I have your Document 117, which is not under
19 seal.

20 MS. THOMPSON: What's not under seal?

21 THE COURT: Document 117. I denied your motion to
22 put it under seal.

23 MS. THOMPSON: Okay.

24 Okay. That's fine, Your Honor. I had asked to
25 put it under seal because of the Court's prior order.

1 THE COURT: Okay.

2 MS. THOMPSON: This was referring to discovery
3 materials --

4 THE COURT: We're in open court. Nothing we're
5 doing in here is --

6 MS. THOMPSON: Okay.

7 THE COURT: -- being hidden from the public.

8 Go ahead.

9 MS. THOMPSON: So do you want to read that out
10 loud.

11 THE DEFENDANT: The factual basis that me and my
12 attorney went over -- this is what we agreed to instead of
13 the prosecutor's.

14 THE COURT: And I appreciate that. But I need to
15 know, are you agreeing that this information --

16 THE DEFENDANT: Yes, I am agreeing --

17 THE COURT: Let me finish.

18 THE DEFENDANT: All right. Sorry.

19 THE COURT: Please let me finish.

20 Are you agreeing that the information you're about
21 to read to me is true and correct?

22 THE DEFENDANT: Yes, Your Honor.

23 THE COURT: All right. Go ahead.

24 THE DEFENDANT: On or about August 5th, 2015, I
25 joined "Website A".

1 Between August 5th, 2015 and October 2nd, 2016, I,
2 with three other people, engaged in a child exploitation
3 enterprise.

4 " 'Website A' was a website dedicated to the
5 advertisement and distribution of child pornography on the
6 Tor network.

7 On or about August 5th, 2015, I posted seven
8 videos in the baby and toddler section of "Website A". The
9 file names were as follows:

10 Baby-Lexxa cum pussy and eating cum.avi.

11 Zero year old, some letters and numbers and then
12 tsexypee.

13 Baby_Lexxa- --

14 THE COURT: Well -- no. No. You're going to have
15 to spell that out so the record can know.

16 THE DEFENDANT: Okay.

17 THE COURT: Spell it out. O-y.

18 THE DEFENDANT: On line B it's O-y -- or
19 oyo-g-02-02(tsexypee).avi.

20 On line C, it's Baby_Lexxa_Ass.avi.

21 On line D, it's Baby-Lexxa-GraggyCum.avi.

22 On line E, it's Baby- -- my bad. That's a typo --
23 -Lexxa_Licky.avi.

24 On line F, Baby-Lexxa_SexyCum.avi.

25 G, it's [Toddler]-9babygirl)baby lexxa gets a pee

1 shower from dad.avi.

2 And then on or about August 10th, 2015, I posted
3 two videos in the "Babies & Toddlers" section of "Website A".
4 The file names are as follows: SimBroGetsWet01.avi;
5 SimBro09-DoorStillClosed.avi

6 On or about August 12th, 2015, I posted one video
7 in the "Babies & Toddlers" section of "Website A". The file
8 name was as follows Cookie Boy.avi.

9 The contents of all these videos and thumbnail
10 pictures posted by me meets the definition of child
11 pornography as defined in 18, U.S.C. Subsection 2256(8).

12 There were at least three different minors in the
13 depictions posted.

14 By posting a video I would post a thumbnail
15 picture of the video on "Website A". The thumbnail picture
16 was viewable to members on "Website A". This action meets
17 the statutory definition of statutory distribution under 18
18 U.S.C., Subsection 2252(a). The posting would also contained
19 a link to the video file located on another website. This
20 action meets the statutory definition of advertising under 18
21 U.S.C., Subsection 2251(d)(1)(A).

22 In the course of these actions, I conspired with
23 others to advertise child pornography on the internet. In
24 the course of these actions, I also conspired with others to
25 distribute child pornography on the internet.

1 THE COURT: So in paragraph 4 of what you just
2 read, Document Number 117, are those seven posted videos what
3 you refer to in the Government's links to seven videos? Are
4 those the seven you're referring to?

5 THE DEFENDANT: I believe so, but I am not
6 entirely sure.

7 THE COURT: And have these seven videos been
8 delivered up to the Government? Does the Government have a
9 copy of these?

10 MS. DAUGHTREY: Yes. I believe that Ms. Thompson
11 saw those videos as part of discovery.

12 MS. THOMPSON: I haven't been able to see them
13 yet, Your Honor. They're still shipping these pictures up
14 from Florida. So. . . They haven't -- I haven't been able
15 to see them.

16 THE COURT: Do you have them in your possession
17 before today?

18 MS. THOMPSON: Oh, no, Your Honor. We're not
19 allowed to have the child pornography. And so we have to go
20 view it. I have requested viewing it. But they had to ship
21 it up here. Apparently none of the other attorneys requested
22 to view it so. . .

23 MS. DAUGHTREY: This -- this was a forensic exam
24 that was performed in Florida where he was arrested and
25 convicted of another related offense.

1 THE COURT: Okay. In paragraph 7, you say "the
2 contents of all the videos and thumbnail pictures." Where
3 are the thumbnail pictures you're referring to?

4 THE DEFENDANT: The thumbnail pictures were in the
5 post that I made on this website, along with a link to the
6 video.

7 THE COURT: That you made to -- to -- to "Website
8 A"?

9 THE DEFENDANT: Yes, Your Honor.

10 THE COURT: Okay.

11 MS. THOMPSON: I got these names, Your Honor, from
12 file names that were provided in the discovery. The files
13 themselves were not provided, but the file names were
14 provided.

15 THE COURT: Well, he's just told me that the
16 information that you read is true and correct. That's what's
17 important.

18 Go ahead, Ms. Daughtrey.

19 MS. DAUGHTREY: I just want to make it clear that
20 the indictment is based on discovery that we have here, that
21 we -- that we have made available for Ms. Thompson. She may
22 not have looked at these particular files. They probably
23 also are on all the forensic reports and evidence that was
24 seized from Mr. Leslie. That's the stuff that she hasn't had
25 access to yet. But none of our charges are based on things

1 that were -- came from that electronics.

2 This all is here. I -- I just think that you
3 haven't seen it. I know you've been over to look at some of
4 it.

5 MS. THOMPSON: No. He -- he said it wasn't here.

6 MS. DAUGHTREY: These files?

7 MS. THOMPSON: (Indicating affirmatively.)

8 MS. DAUGHTREY: Okay.

9 All right. I think that's not correct.

10 MS. THOMPSON: Okay.

11 (Respite.)

12 THE COURT: Okay. Anything else?

13 MS. THOMPSON: No, Your Honor.

14 THE COURT: All right. Anything else from the
15 Government?

16 MS. DAUGHTREY: No, Your Honor.

17 THE COURT: Okay.

18 All right. Mr. Leslie, let me ask you again. Do
19 you understand that by entering a guilty plea and my
20 acceptance of your guilty plea there will be no trial and
21 you're giving up forever the right to a trial and the other
22 constitutional and appellate rights that we've discussed?

23 THE DEFENDANT: Yes, Your Honor.

24 THE COURT: And again, do you understand that by
25 pleading guilty, aside from appealing your sentence, you

1 cannot come to any court and claim that you're not guilty or
2 that your rights have been violated?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: And having heard from me what your
5 rights are and what may occur if you plead guilty, do you
6 still want to give up your right to a trial and plead guilty?

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: Then Mr. Leslie, how do you plead on
9 Counts One, Two, and Three?

10 THE DEFENDANT: Guilty, Your Honor.

11 THE COURT: Are you pleading guilty because you,
12 in fact, engaged in that criminal behavior?

13 THE DEFENDANT: Yes, Your Honor.

14 THE COURT: Are you pleading guilty because you
15 indeed engaged in behavior that -- and actions that
16 constitute violations of those statutes?

17 THE DEFENDANT: Yes, Your Honor.

18 THE COURT: The Court has observed Mr. Leslie and
19 his answers to the questions. I think he's in full
20 possession of his faculties and competent to plead guilty.
21 He's not under the apparent influence of any drugs, alcohol
22 or prescription medications. He understands the nature of
23 the charge to which the plea is offered and the maximum
24 possible penalty. He's waived his constitutional right to a
25 trial and the constitutional rights accorded all citizens

1 accused of a crime. He's aware of the term -- he's aware
2 that he has no plea agreement. And he's offered to plead
3 guilty knowingly, intelligently and voluntarily. I find
4 there's a factual basis for the plea. So the plea of guilty
5 is hereby accepted. And Mr. Leslie, you're adjudged guilty
6 of Counts One, Two, and Three in the indictment.

7 So the next step is to set a sentencing hearing.
8 And I'm going to ask Ms. Daughtrey to help me. When did I
9 set his co-defendants?

10 MS. DAUGHTREY: You said that we should set aside
11 May 6th and 7th --

12 THE COURT: Thank you.

13 MS. DAUGHTREY: -- for all of them.

14 THE COURT: Yeah. I need you to set aside May 6th
15 and 7th. And I'll -- once you all get the presentence
16 report, you'll be able to tell me how long each is going to
17 go. And then I can give you a definite time and -- so
18 Mr. Leslie, your sentencing will take place on the 6th or the
19 7th. And once your attorney tells me how much time you'll
20 need at the sentencing, I'll be able to give you a specific
21 time on those dates, and we'll proceed at sentencing.

22 Okay. Any -- now Mr. Leslie, do you have any
23 questions about anything we discussed today or on Wednesday?

24 THE DEFENDANT: I don't believe, Your Honor.

25 THE COURT: Okay. Do you have any questions about

1 what's going to happen after today?

2 THE DEFENDANT: No.

3 THE COURT: Okay. Ms. Daughtrey?

4 MS. DAUGHTREY: Nothing from the Government.

5 THE COURT: Anything, Ms. Thompson?

6 MS. THOMPSON: No, Your Honor.

7 THE COURT: All right. We'll -- sorry. I will --

8 I'll sign the order accepting your guilty plea. And we'll

9 enter an order on the sentencing. Thanks.

10 (Court adjourned.)

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1 REPORTER'S CERTIFICATE

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3 I, Lise S. Matthews, Official Court Reporter for
4 the United States District Court for the Middle District of
5 Tennessee, with offices at Nashville, do hereby certify:

6 That I reported on the Stenograph machine the
7 proceedings held in open court on November 16, 2018, in the
8 matter of UNITED STATES OF AMERICA v. ANDREW RYAN LESLIE,
9 Case No. 3:17-CR-00044-3; that said proceedings in connection
10 with the hearing were reduced to typewritten form by me; and
11 that the foregoing transcript (pages 1 through 21) is a true
12 and accurate record of said proceedings.

13 This the 22nd day of December, 2018.

14

15 /s/ Lise S. Matthews
16 LISE S. MATTHEWS, RMR, CRR, CRC
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